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enclosing said stored electronic data in a fire-resistant enclosure capable of protecting said stored electronic data from environmental hazard;  
connecting said enclosure to a power source outside said enclosure; and  
connecting said enclosure to a data source outside said enclosure.

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### **Remarks**

The present application includes claims 1-21, all of which were rejected by the Examiner. By this amendment, claims 1, 11, and 15 have been amended. The Applicant appreciates the Examiner's acceptance of Applicant's declaration filed on May 31, 2002 to overcome the Engler reference.

Claims 1-9, 11-13, and 15-20 were rejected under 35 U.S.C. § 102(b) as anticipated by Dhont et al., U.S. Patent No. 5,397,237 ("the '237 patent"). Claims 10, 14, and 21 were rejected under § 103(a) as being unpatentable over the '237 patent, in view of Applicant's statement that infrared communications links were well known in the art.

The rejection of claims 1-9, 11-13, and 15-20 under 35 U.S.C. § 102(b) as being anticipated by the '237 patent is respectfully traversed. The '237 patent teaches an apparatus for simulating pathological and other respiratory conditions for teaching respiratory auscultation semiology to medical personnel. As depicted in Figure 1 of the '237 patent, the apparatus consists of a mannequin 1 connected to a control device 3 by an electrical cable 4. The control device 3 is housed in a carrying case (see Col. 2, Line 26). The specification of the '237 patent states that the carrying case is an attaché case 31. The attaché case 31 is neither described as fire resistant nor is it described as being capable of protecting the control device 3 from any sort of environmental hazard. The focus of the '237 patent is to increase the portability of the entire

apparatus (see Col. 1, Line 17), and does not mention the ability of any component to withstand an environmental hazard. The '237 patent does not teach a case that protects the contents from environmental hazard. Thus, the '237 patent does not teach the limitations of claims 1-9, 11-13, and 15-20 regarding protection of the contents from environmental hazard.

To clarify the protective capability of the enclosure, the Applicant has amended independent claims 1, 11, and 15. Independent claims 1, 11, and 15 have been amended to include the limitation of a fire-resistant enclosure. The '237 patent does not teach the use of a fire-resistant enclosure.

The rejection of dependent claims 10, 14, and 21 under § 103(a) as being unpatentable over the '237 patent, in view of Applicant's statement that infrared communications links were well known in the art is respectfully traversed. Applicant's statement with regard to infrared communications links being well known in the art was meant to be limited only to the physical nature of an infrared communications link and not to the inclusion of such a link in conjunction with any other device or system. On that basis, dependent claims, such as 10, 14, and 21, that are directed to a combination, include everything recited in the base claim and what is recited in the dependent claim. Thus, dependent claims 10, 14, and 21 include the limitations of their respective base claims 1, 11, and 15.

As discussed above, the '237 patent does not teach the limitation of protecting the contents of the case from an environmental hazard. In fact, the '237 patent teaches an apparatus that only functions with the lid of the case open (Column 2, Line 27 of the '237 patent states the non-functioning position of the carrying case is when the lid is closed). An apparatus that only operates with the lid of the case in the open position does not protect its contents from environmental hazard during operation because the contents of the case are openly exposed to

the environment. Thus, the '237 patent does not teach a protective enclosure that protects its contents from environmental hazard while allowing for a data storage device within the enclosure to operate.

As a result, neither the '237 patent nor Applicant's statement regarding an infrared link, alone or in combination, teach the limitations of dependent claims 10, 14, and 21. Specifically, neither the '237 patent nor Applicant's statement regarding an infrared link, alone or in combination, teach a protective enclosure that protects its contents from environmental hazard while allowing for a data storage device within the enclosure to operate and communicate with an outside data source through infrared links. Consequently, the Applicant respectfully submits that dependent claims 10, 14, and 21 are not rendered obvious by the '237 patent or Applicant's statement regarding infrared links.

In addition, the Applicant respectfully disagrees with Examiner's inclusion of the '237 patent as analogous art. The Applicant considers the '237 patent to be nonanalogous art. The '237 patent is not an invention in the Applicant's field of endeavor nor does it pertain to the particular problem with which the Applicant is concerned. See In re Oetiker, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992).

Applicant's invention resolves a long-standing need to prevent loss of important data in case of an unforeseen contingency. This long-standing need arises from a belief that computer users do not adequately protect computers and data storage against extreme environmental hazards, such as fire. By providing a fire-resistant enclosure that allows for connecting the data storage device to a power source and data source outside the enclosure, the Applicant's invention provides protection against environmental hazards while the data storage device is operating.

The '237 patent presents an apparatus for training medical personnel. The Applicant believes the '237 patent is nonanalogous art because the '237 patent is not in the field of Applicant's endeavor nor does it pertain to the particular problem with which Applicant is concerned. The Applicant's invention concerns protection of computer hardware and software from environmental hazard whereas the '237 patent concerns training of medical personnel. Additionally, as discussed previously with regards to the use of the attaché case, the '237 patent focuses upon increasing the portability of a teaching apparatus (see Col. 1, Line 17) and not protection of the apparatus from environmental hazard. A person having ordinary skill in the art would not reasonably have expected to solve the problem of protecting a computer data storage device from environmental hazard by considering a reference dealing with an apparatus for teaching medical personnel respiratory auscultation semiology. Thus, Applicant respectfully disagrees with Examiner's inclusion of the '237 patent as analogous art and considers the '237 patent to be nonanalogous art.

### **Conclusion**

For all the foregoing reasons, Applicant believes Claims 1-21 are in condition for allowance. Applicant respectfully requests that the Examiner issue a Notice of Allowance of Claims 1-21.

The Applicant looks forward to working with the Examiner to resolve any remaining issues in the application.

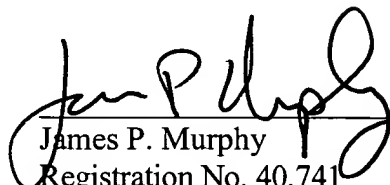
If the Examiner has any questions or the Applicant can be of any assistance, the Examiner is invited and encouraged to contact counsel for the Applicant at the telephone number below.

The Commissioner is authorized to charge any necessary fees or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Account No. 13-0017.

Respectfully submitted,

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